

(m) An EWR may only be issued to replace a paper receipt if the current holder of the warehouse receipt agrees.

(n) EWRs shall not be issued for defective cotton as defined in § 735.70.

(o) Licensed warehousemen must inform the Secretary of the identity of their approved provider 60 calendar days in advance of issuing warehouse receipts through that provider. The Secretary may waive or modify this 60 day requirement.

(p) Holders and licensed warehousemen may authorize any other user of a provider to act on their behalf with respect to their activities with such provider. Such authorization must be in writing, acknowledged, and retained by the provider.

(q) Provisions of § 735.18 shall be applicable to lost or destroyed EWRs.

[59 FR 15038, Mar. 31, 1994]

**§ 735.102 Provider requirements and standards for applicants.**

(a) *Financial requirements.* All providers to be approved under this part must meet the following requirements:

(1) Have a net worth of at least \$25,000, and

(2) Maintain two insurance policies; one for “errors and omissions” and another for “fraud and dishonesty”. Each policy must have a minimum coverage of \$2 million.

(b) *User fee charges.* Providers shall pay to FSA user fees set by FSA and announced annually prior to April of each calendar year.

(c) *Provider agreement.* The provider agreement shall contain, but not be limited to, the following basic elements:

(1) *Records.* The retention period for records.

(2) *Liability.* The liability of the provider.

(3) *Transfer of records.* The requirements for transferring EWRs to another provider.

(d) *Suspension and termination.* (1) The Secretary may suspend or terminate a provider’s agreement for cause at any time.

(2) Hearings and appeals will be conducted in accordance with procedures that are contained in §§ 735.7 and 735.89.

(3) Without specific written authority by the Secretary, suspended or ter-

minated providers may not accept, transfer, or execute any other function pertaining to EWRs during the pendency of any appeal or subsequent to such appeal if the appeal is denied.

(4) The provider or FSA may terminate the provider agreement without cause solely by giving the other party written notice 60 calendar days prior to the termination.

(e) *Renewal.* Each provider agreement will be automatically renewed annually on April 30th as long as the provider complies with the terms contained in the provider agreement, the regulations in §§ 735.100 through 735.105 and the Act.

(f) *Application form.* Application for a provider agreement shall be made to the Secretary upon forms prescribed and furnished by FSA.

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**§ 735.103 Audits.**

(a) The provider must submit to the Secretary an annual audit level financial statement that meets the requirements of § 735.5 with the exception of §§ 735.5(d)(1), (e), (g), and (h); and an electronic data processing audit. These audits shall encompass the provider’s fiscal year. The completed audits shall be submitted to the Secretary no later than four calendar months following the end of the provider’s fiscal year. The electronic data processing audit shall result in an evaluation as to current computer operations, security, disaster recovery capabilities of the system, and other systems.

(b) The provider will grant the Secretary or his designees unlimited, free access at any time to all records under the provider’s control relating to activities conducted under this part and as specified in the provider agreement.

[59 FR 15039, Mar. 31, 1994]

**§ 735.104 Provider-user relationship.**

(a) The provider shall not discriminate among its users regarding use of and access to its CFS and must charge fees on an equal basis to all users for its services.

(b) The provider must furnish the Secretary with copies of its current schedule of fees for all services and charges as they become effective.